

Service Date: March 15, 2000

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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IN THE MATTER OF the Application of	)	UTILITY DIVISION
Northwest Communications Networks, Inc. and	)	
U S WEST Communications, Inc.	)	DOCKET NO. D99.9.213
Pursuant to Section 252(e) of the	)	
Telecommunications Act of 1996 for Approval	)	ORDER NO. 6217a
Of Local Wireline Network Interconnection and	)	
Service Resale Agreement	)	

**ORDER ON RECONSIDERATION**

1. On December 15, 1999, the Montana Public Service Commission (Commission) issued Final Order No. 6217 in this docket, rejecting as not in the public interest a portion of Section 40.3.4, Part A, of the Northwest/U S West Agreement. The rejected portion reads: "[Northwest] must use leased space as soon as reasonably possible and may not warehouse space for later use or sublease to another provider." Order No. 6217 at 15.

2. Also in Order No. 6217 the Commission rejected all or parts of the following provisions:

Part A – Page 23, Section 17

Part A – Page 27, Section 27

Part A – Page 62, Section 48.11

Part A – Page 75, Section 50.3.9

Attachment 1 – Schedule 1

Attachment 2 – Page 2, Section 1.3

Attachment 2 – Page 3, Section 2.1 and 2.2; and page 11, Sections 9.1 and 9.2

Attachment 3 – Page 5, Section 3.3

Attachment 3 – Page 3, Section 1.2.3

Attachment 5 – Page 4, Section 2.1.3

3. In addition, the Commission required that a provision be added indicating that U S West must notify the Commission of a possible disconnection of service that might affect end-users. The Commission took the actions identified in paragraph 2 and this paragraph because it appeared that the Northwest/U S West Agreement was filed without regard to Order No. 5961f, Docket No. D96.11.200, in which the Commission addressed nearly identical provisions.

4. On January 18, 2000, U S WEST Communications, Inc. (U S West) filed a Motion for Reconsideration asking the Commission to reverse its decision to reject the language quoted above at paragraph 1 from Section 40.3.4, Part A, of the Agreement. U S West stated:

The quoted language is not intended to prohibit the subleasing of collocation space. It is intended to prohibit the warehousing of collocation space, which needs to be managed as a finite resource. U S West will allow an interconnector to sublease collocation space it no longer needs or wants. What it will not allow is the warehousing of collocation space, for any purpose, including later subleasing. The language recognizes the general policies of the Federal Communications Commission, which favor subleasing, and disfavor warehousing.

U S West also pointed out in its Motion for Reconsideration that its Agreement with Northwest is an "opt-in" agreement in which Northwest has agreed to the terms of the Agreement between U S West and AT&T. U S West pointed out that an amendment had been filed with the Agreement, changing it to conform with Commission direction in Order No. 5961f, Docket No. D96.11.200.

#### Discussion

5. On reconsideration the Commission concurs with U S West that it is not in the public interest, or in the interest of furthering competition, to allow a collocater to control entry into central office space. The Commission accepts U S West's explanation as reasonable, and will find Section 40.3.4, Part A of the Agreement in the public interest.

6. Also, on reconsideration the Commission recognizes that it was not aware, when it reviewed the Northwest/U S West Agreement, that the Agreement is an "opt-in" to the U S West/AT&T Agreement, and that an "Amendment No. 1" to the Agreement was filed along with the Agreement in order to make changes to the Agreement to conform with Commission direction in Order No. 5961f, Docket No. D96.11.200. Therefore, the Commission will rescind

those parts of Order No. 6217 in which the Commission compares the Northwest/U S West Agreement with Order No. 5961f. In the future it would be helpful if U S West would identify in the application whether it is submitting an "opt-in" agreement; also, it would be helpful if U S West would indicate that an amendment is being filed along with the Agreement.

Conclusions of Law

The Commission adopts by reference the Conclusions of Law at Order No. 6216 in this docket.

Order

U S West's Motion for Reconsideration is granted. Section 40.3.4, Part A, of the Northwest/U S West Agreement does not discriminate against carriers not party to the Agreement and is otherwise in the public interest. The Northwest/U S West Agreement is approved, as amended by Amendment No. 1, to the extent that that Amendment conforms to Commission direction in Order No. 5961f. Otherwise, Commission direction and comment in Order No. 6217 is affirmed.

DONE AND DATED this 25th of January, 2000, by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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DAVE FISHER, Chairman

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NANCY MCCAFFREE, Vice Chair

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GARY FELAND, Commissioner

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BOB ANDERSON, Commissioner

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BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson  
Commission Secretary

(SEAL)